

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 1862 - SB 2626**

February 9, 2018

**SUMMARY OF BILL:** Reduces the fee from \$350 to \$180 for expungements resulting from the successful completion of diversion programs.

**ESTIMATED FISCAL IMPACT:**

**Decrease State Revenue – \$144,200/TBI**

Assumptions:

- Tennessee Code Annotated § 40-32-101(d) authorizes a court to order the expunction of a defendant's public records after successfully completing a diversion program under Tenn. Code Ann. § 40-15-105 and -106 or a judicial diversion program.
- Beginning in FY12-13, Tenn. Code Ann. § 40-32-101(d)(2) required the defendant to pay a \$350 fee, which was transmitted to the Tennessee Bureau of Investigation (TBI). Prior to FY12-13, the defendant paid a fee of \$50 to TBI. The \$350 fee represents a 600 percent increase over the previous \$50 fee [ $(\$350 - \$50) / \$50$ ].
- The proposed legislation reduces the current \$350 fee by \$170 to \$180.
- Statistics from the TBI show the following collections, and, therefore, estimated expunctions processed over the last eight fiscal years:

<b>Fiscal Year</b>	<b>Collections</b>	<b>Estimated Expunctions (Collections / \$350 Fee)</b>
FY12-13	\$1,140,264.09	3,257.90
FY13-14	\$1,337,173.55	3,820.50
FY14-15	\$1,331,694.76	3,804.84
FY15-16	\$1,379,375.13	3,941.07
FY16-17	\$1,256,987.60	3,591.39

- These statistics show an average of 3,683.14 expunctions each year resulting from the successful completion of a diversion or judicial diversion program.
- In the three fiscal years prior to the institution of the \$350 fee, the collections, and, therefore, estimated expunctions were:

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<b>Fiscal Year</b>	<b>Collections</b>	<b>Estimated Expunctions (Collections / \$50 Fee)</b>
FY09-10	\$429,889.00	8,597.78
FY10-11	\$405,291.67	8,105.83
FY11-12	\$425,987.38	8,519.75

- These statistics show an average of 8,407.79 expunctions each year prior to the institution of the \$350 fee and a decrease of 56.19 percent  $[(8,407.79 - 3,683.14) / 8,407.79]$  for the average number of expunctions per year after the fee increase.
- The proposed legislation would decrease the current fee to \$180, which represents a 260 percent  $[(\$180 - \$50) / \$50]$  increase over the prior \$50 fee.
- It is assumed that there is a proportional and linear relationship between the amount of the fee and the number of defendants that will elect expungement. Given that a 600 percent fee increase (relative to the \$50 fee) resulted in a 56.19 percent decrease in the average number of expungements, then a 260 percent fee increase (relative to the \$50 fee) will result in a 24.35 percent decrease  $[(56.19\% / 600\%) \times 260\%]$  to the current average number of expungements.
- A decrease of 24.35 percent to the current average number of expunctions will result in an estimated average of 6,360.49 expungements per year  $[8,407.79 - (8,407.79 \times 24.35\%)]$  under the provisions of this legislation.
- The TBI currently collects an average of \$1,289,099 per year  $(3,683.14 \times \$350)$  from diversion expungements. Under the proposed legislation, the TBI will collect an estimated \$1,144,888  $(6,360.49 \times \$180)$  per year.
- Therefore, the recurring decrease in state fee revenue to the TBI is estimated to be \$144,211  $(\$1,289,099 - \$1,144,888)$ .
- The proposed legislation will increase the workload for TBI's Criminal Justice Information Services division. However, when TBI's workload was reduced by 56 percent in FY12-13, TBI did not reduce its personnel within the division.
- TBI can accommodate the increased workload within its existing resources.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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